



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

August 3, 2017

Certified Mail/Return Receipt
7012 3460 0003 1112 9301

Steward and Jasper Orchards, DBA Eastin Water System
3500 Shiells Road
Newman, CA 95360

Attention: Jim Jasper, President

Subject: Public Water System No. 5000574 – Citation No. 01-10-17C-013 for failure to comply with CHSC, Section 116555 (a)(1); CCR, Title 22, Section 64431; Permit 2016-03-014; and Compliance Order DER-16CO-003 Directives

The Eastin Water System (owned by Stewart and Jasper Orchards) has failed to meet the regulations in California Health and Safety Code; Title 22 of the California Code of Regulations; Permit 2016-03-014 provision; and has failed to complete directives given in Compliance Order No. DER-16CO-003. The Division of Drinking Water hereby issues the enclosed citation.

This citation imposes an administrative penalty in the amount of \$12,000.00 for the violations specified in the citation.

Any person who is aggrieved by an order or decision issued by the deputy director of the Division of Drinking Water under Article 8 (commencing with Health and Safety Code section 116625) or Article 9 (commencing with Health and Safety Code section 116650), of the Safe Drinking Water Act (Chapter 4, Part 12, Division 104, of the Health and Safety Code) may file a petition with the State Water Board for reconsideration of the order or decision. Attachment A to the enclosed citation contains the relevant statutory provisions for filing a petition for reconsideration (Health and Safety Code section 116701). Petitions must be received by the State Board within 30 days of the issuance of the order or decision by the Deputy Director. The date of issuance is the date when the Division of Drinking Water mails a copy of the order or decision. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day. Petitions must be received by 5:00 p.m.

Information regarding filing petitions may be found at:

http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

364 Knollcrest Drive, Suite 101, Redding, CA 96002 | www.waterboards.ca.gov

Eastin Water System
Citation 01-10-17C-013

If you have any questions, please call Bhupinder Sahota at (209) 948-3881, or call me at (530) 224-4867.

A handwritten signature in black ink, appearing to read "Richard L. Hinrichs".

Richard L. Hinrichs, P.E., Chief
Northern California Section
Division of Drinking Water

cc: Bruce H. Burton, P.E, Assistant Deputy Director, DDW

Jami Aggers, M.A., R.E.H.S., Director
Stanislaus County Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358

Enclosure: Citation No. 01-10-17C-013

1
2 **STATE OF CALIFORNIA**
3 **STATE WATER RESOURCES CONTROL BOARD**
4 **DIVISION OF DRINKING WATER**
5

6 **Public Water System: Eastin**

7 **Water System Number: 5000574**
8

9 **To:** Stewart and Jasper Orchards DBA Eastin Water System

10 Attn: Jim Jasper

11 3500 Shiells Road

12 Newman, CA 95360
13

14 **Issued: August 3, 2017**

15 VIA CERTIFIED MAIL/RETURN RECEIPT

16 7012 3460 0003 1112 9301
17

18 **CITATION NO. 01-10-17C-013 FOR VIOLATION OF**
19 **CHSC, SECTION 116555 (a)(1)**
20 **CCR, TITLE 22, SECTION 64431;**
21 **PERMIT NUMBER 2016-03-014;**
22 **AND DIRECTIVES 3, 6, 7, 8, and 9 OF**
23 **COMPLIANCE ORDER NO. DER-16CO-003.**
24

25 Section 116650 of Chapter 4 of Part 12 of Division 104 of the California Health and
26 Safety Code (H&S Code) authorizes the issuance of a citation for failure to comply

1 with a requirement of the California Safe Drinking Water Act or any regulation,
2 standard, permit, or order issued thereunder.

3
4 The State Water Resources Control Board (hereinafter "Board"), acting by and
5 through its Division of Drinking Water (hereinafter "Division") and the Deputy Director
6 for the Division, hereby issues this Citation to Eastin Water System, owned by
7 Stewart and Jasper Orchards, for failure to comply with applicable sections of
8 California Health and Safety Code (CHSC), Section 64431, Title 22, of the California
9 Code of Regulations (hereinafter "CCR"), and specific Directives in Permit 2016-03-
10 014 and Compliance Order No. DER-16CO-003.

11
12 A copy of the applicable statutes and regulations are included in Appendix A, which
13 is attached hereto and incorporated by reference.

14
15 **STATEMENT OF FACTS**

16 The Eastin water system (hereinafter, "System") is classified as a nontransient-
17 noncommunity water system located in Stanislaus County that supplies water for
18 domestic purposes to approximately 26 people. The System uses untreated ground
19 water from a Well (5000574-001) which is located off premise of the System as its
20 source of domestic water. The System is regulated by Stanislaus County as the
21 Local Primacy Agency (LPA) in accordance to CHSC Section 116330 and operates
22 under a Water Supply Permit No. 2016-03-014 issued by the LPA.

23
24 **CHSC Section 116555 (a)(1)**

25 CHSC Section 116555 (a)(1), states: (a) Any person who owns a public water

system shall ensure that the system does all of the following:

- (1) Complies with primary and secondary drinking water standards.

The System was issued a Compliance Order No. DER-13CO-012 on December 19, 2013 and a Compliance Order No. DER-16CO-003 on March 14, 2016 by the LPA for violation of the mercury Maximum Contaminant Level (MCL).

CCR, Title 22, Section 64431

CCR, Title 22 Section 64431, states: Public water systems shall comply with the primary MCLs in table 64431-A as specified in this article.

Table 64431-A
Maximum Contaminant Levels
Inorganic Chemicals

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Hexavalent chromium	0.010
Mercury	0.002
Nickel	0.1
Nitrate (as nitrogen)	10.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 um in length.

As of the date of this Citation, the System's Running Annual Average (RAA) continues to be in violation of the primary MCL for mercury as noted below in **Table 1**. All results are as reported to the LPA by the laboratory that performed the analysis.

Table 1: Mercury Monitoring Results (in mg/L)

Date	Result (mg/L)	Quarter	RAA
11/4/2015	0.051	4 th 2015	
2/2/2016	0.008	1 st 2016	
5/3/2016	0.048	2 nd 2016	
8/16/2016	0.058	3 rd 2016	0.041
12/9/2016	ND	4 th 2016	0.028
1/6/2017	0.020	1 st 2017	0.032
3/3/2017	0.028		
6/2/2017	0.002	2 nd 2017	0.021

Permit 2016-03-014, issued on March 14, 2016:

Provision 6 of the Permit Number 2016-03-014, issued to the System on March 14, 2016, stated: "The Eastin Water System shall comply with all requirements of the compliance order DER-16CO-003." As of the date of this citation, the System has not complied with all requirements of the Order.

Compliance Order No. DER-16CO-003, issued on March 14, 2016:

- Directive 3: Directive 3 of Compliance Order DER-16CO-003 required that the System, "Commencing on the date of service of this Order, submit proof of each public notification conducted in compliance with Directive No. 2, herein above, within 10 days following each such notification, using the form provided as Enclosure No. 2.". Proof of quarterly public notification due dates and submission status, are shown below in **Table 2**.

Table 2 – Public Notification

Reporting Quarter	Mercury RAA (in mg/L)	Due Date	Reporting Status
3 rd Quarter 2016	0.041	October 10, 2017	Received 9/21/16
4 th Quarter 2016	0.028	January 10, 2017	Not Received
1 st Quarter 2017	0.032	April 10, 2017	Not Received
2 nd Quarter 2017	0.021	July 10, 2017	Not Received

As of the date of this Citation, the LPA has not received the proof of public notification for 4th Quarter 2016, 1st Quarter 2017, and 2nd Quarter 2017.

- Directive 6: Directive 6 of Compliance Order DER-16CO-003 required that the system, "Perform each and every element of the approved Corrective Action Plan according to its time schedule". The following milestones were included in the Corrective Action Plan submitted to the LPA and approved via email on April 13, 2016.

→ Week of April 4, 2016, Worksheet for CEQA Exemptions turned into Stanislaus County Planning Department.

→ April 8, 2016, Letter of Compliance to the Compliance Order No. DER-16CO-003 submitted to the LPA.

→ Week of April 11, 2016, Control Zone Diagram and Application for Amended Water Supply Permit submitted to the LPA.

→ June 2016, anticipated date of new well permit from Stanislaus County.

→ July-August 2016, anticipated time period for drilling and developing new well.

→ September 2016, Capacity and Quality testing of new well.

→ October 2016, Final connection of new water source.

As of the date of this Citation, the System has not submitted documentation of capacity and quality testing of the new well to the LPA.

- Directive 7: Directive 7 of Compliance Order DER-16CO-003 required that, "On or before July 10, 2016 and every three months thereafter, submit a report to the Division using the form provided as Enclosure No. 3 (enclosed) showing actions taken to comply with the Corrective Action Plan during the previous three months". The quarterly progress reports are to document the actions taken during the previous three months to comply with the Corrective Action Plan. Quarterly progress report due dates and submission status are shown below in **Table 3**.

Table 3 – Quarterly Progress Reports

Reporting Quarter	Due Date	Reporting Status
3 rd Quarter 2016	October 10, 2016	Received 12/13/16
4 th Quarter 2016	January 10, 2017	Not Received
1 st Quarter 2017	April 10, 2017	Not Received
2 nd Quarter 2017	July 10, 2017	Not Received

As of the date of this Citation, the LPA has not received the progress reports for 4th Quarter 2016, 1st Quarter 2017, and 2nd Quarter 2017.

- Directive 8: Directive 8 of Compliance Order DER-16CO-003 required that, "On or before February 8, 2017, complete all of the improvements and/or additions outlined in the Eastin's Corrective Action Plan". As of the date of this citation the System has not completed capacity and quality testing of the new well and has not made a final connection of the new water source.
- Directive 9: Directive 9 of Compliance Order DER-16CO-003 required that, "On or before February 8, 2017, Eastin water system shall return to compliance with all requirements of the Safe Drinking Water Act". As listed

1 above in **Table 1**, the System still has not returned to compliance with the
2 mercury MCL.

- 3
- 4 • Directive 10: Directive 10 of Compliance Order DER-16CO-003 required that,
5 "Not later than ten (10) days following the date of compliance with the
6 Mercury MCL, demonstrate to the Division (LPA) that the water delivered by
7 the Eastin complies with the Mercury MCL". As of 10 days following the
8 February 8, 2017 or February 18, 2017, the System has not demonstrated to
9 the LPA that the water delivered complies with the mercury MCL.

10

11 **DETERMINATIONS**

12 Based on the above Statement of Facts, the State Board has determined that
13 system has violated and continues to be in violation of:

- 14 1. CHSC Section 116555 (a)(1).
- 15 2. CCR Title 22 Section 64431.
- 16 3. Provision 6 of the permit 2016-03-014 issued to the system on March 14,
17 2016.
- 18 4. Directive 3 of Compliance Order DER-16CO-003 issued to the System on
19 March 14, 2016.
- 20 5. Directive 6 of Compliance Order DER-16CO-003 issued to the System on
21 March 14, 2016.
- 22 6. Directive 7 of Compliance Order DER-16CO-003 issued to the System on
23 March 14, 2016.

1 7. Directive 8 of Compliance Order DER-16CO-003 issued to the System on
2 March 14, 2016.

3 8. Directive 9 of Compliance Order DER-16CO-003 issued to the System on
4 March 14, 2016.

5
6 **ADMINISTRATIVE PENALTY**

7 The State Board hereby assesses upon the System an administrative penalty for the
8 violations contained in this citation in the amounts shown below:

9
10 1. Directive 3 of Compliance Order DER-16CO-003 issued to the System on
11 March 14, 2016. - \$1,500

12 2. Directive 6 of Compliance Order DER-16CO-003 issued to the System on
13 March 14, 2016. - \$1,000

14 3. Directive 7 of Compliance Order DER-16CO-003 issued to the System on
15 March 14, 2016. - \$1,500

16 4. Failure to complete facilities and return to compliance with the mercury
17 MCL (Directives 8 and 9 of Compliance Order DER-16CO-003) issued to
18 the System on March 14, 2016. - \$8,000

19 **The total civil penalties assessed by this citation are \$12,000.** The System is
20 directed to pay this penalty in accordance with the requirements set forth in Directive
21 1 of this citation.

DIRECTIVES

The System is hereby directed to complete the following actions:

1. Submit to the State Board by **September 7, 2017**, a check for the administrative penalty of \$12,000 imposed by this Citation and a copy of the form which is attached as Appendix B, hereto entitled "Notice of Administrative Penalty." The Citation number shall be written on the check. The check shall be made payable to the **State Water Resources Control Board** and submitted to:

SWRCB Accounting Office
ATTN: Drinking Water Program
P.O. Box 1888
Sacramento, CA 95812-1888

2. Submit to the State Board by **September 7, 2017**, a copy of the check and Compliance Certification (Appendix C) form to:

Mr. Bhupinder S. Sahota
SWRCB Division of Drinking Water
31 E. Channel Street, Room 270
Stockton, CA 95212

Nothing in this Citation relieves the System of its obligation to meet the requirements of Health and Safety Code, Division 104, Part 12, Chapter 4 (California Safe Drinking Water Act), or any regulation, permit, standard or order issued or adopted thereunder. The Division reserves the right to make such modifications to this

1 Citation, as it may deem necessary to protect public health and safety. Such
2 modifications may be issued as amendments to this Order and shall be effective
3 upon issuance.

4
5 **FURTHER ENFORCEMENT ACTION**

6 The California Safe Drinking Water Act (SDWA) authorizes the Board to: issue
7 citations with assessment of administrative penalties to a public water system for
8 violation or continued violation of the requirements of the California SDWA or any
9 regulation, permit, standard, citation, or order issued or adopted thereunder
10 including, but not limited to, failure to correct a violation identified in a citation or
11 compliance order.

12
13 The California SDWA also authorizes the Board to take action to suspend or revoke
14 a permit that has been issued to a public water system if the system has violated
15 applicable law or regulations or has failed to comply with an order of the Board; and
16 to petition the superior court to take various enforcement measures against a public
17 water system that has failed to comply with or violates an order of the Board. The
18 Board does not waive any further enforcement action by issuance of this citation.

19
20 **PARTIES BOUND**

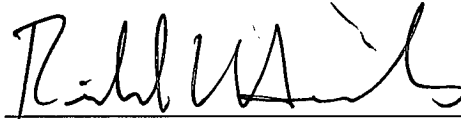
21 This Citation shall apply to and be binding upon the System, its officers, directors,
22 agents, employees, contractors, successors, and assignees.

SEVERABILITY

The directives of this Citation are severable, and the System shall comply with each and every provision thereof notwithstanding the effectiveness of any other provision.

8/3/2017

Date



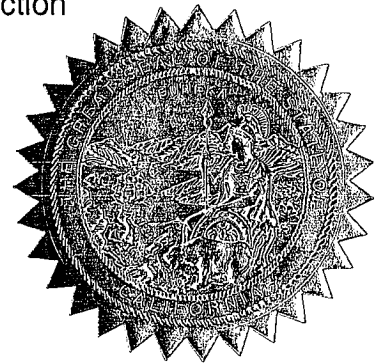
Richard L. Hinrichs, P.E., Chief
Northern California Section

Appendices:

Appendix A – Applicable Authorities

Appendix B – Notice of Administrative Penalty

Appendix C – Compliance Certification



cc: Bruce H. Burton, P.E., Assistant Deputy Director, DDW

Jami Aggers, M.A., R.E.H.S., Director

Stanislaus County Department of Environmental Resources

3800 Cornucopia Way, Suite C

Modesto, CA 95358

APPLICABLE AUTHORITIES

Section 116650 of the CHSC states:

- (a) If the state board determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the state board may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.*
- (b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision,*
- (c) standard, order, citation, permit, or regulation alleged to have been violated.*
- (d) A citation may specify a date for elimination or correction of the condition constituting the violation.*
- (e) A citation may include the assessment of a penalty as specified in subdivision (e).*
- (f) The state board may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation.*

Section 116330 of the CHSC states:

- (a) The department may delegate primary responsibility for the administration and enforcement of this chapter within a county to a local health officer authorized by the board of supervisors to assume these duties, by means of a local primacy delegation agreement if the local health officer demonstrates that it has the capability to meet the local primacy program requirements established by the department pursuant to subdivision (h) of Section 116375. This delegation shall not include the regulation of community water systems serving 200 or more service connections. The local primacy agreement may contain terms and conditions that the department deems necessary to carry out this chapter. The local primacy agreement shall provide that, although the local primacy agency shall be primarily responsible for administration and enforcement of this chapter for the designated water systems, the department does not thereby relinquish its authority, but rather shall retain*

ATTACHMENT A

jurisdiction to administer and enforce this chapter for the designated water systems to the extent determined necessary by the department.

- (f) The local primacy agency shall act for the department as the primary agency responsible for the administration and enforcement of this chapter for the specified public water systems and shall be empowered with all of the authority granted to the department by this chapter over those water systems.*

Section 116555 of the CHSC states:

- (a) Any person who owns a public water system shall ensure that the system does all of the following:*

- (1) Complies with primary and secondary drinking water standards.*
- (2) Will not be subject to backflow under normal operating conditions.*
- (3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.*

California Code of Regulations (CCR), Title 22 Section 64431, states:

Public water systems shall comply with the primary MCLs in table 64431-A as specified in this article.

**Table 64431-A
Maximum Contaminant Levels
Inorganic Chemicals**

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Hexavalent chromium	0.010
Mercury	0.002
Nickel	0.1
Nitrate (as nitrogen)	10.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 µm in length.

Permit 2016-03-014 (issued on March 14, 2016) stated:

Provision number 6 of the permit 2016-03-014, issued to the System on March 14, 2016, stated: "The Eastin Water System shall comply with all requirements of the compliance order DER-16CO-003."

Directives 2, 3, 6, 7, 8, 9 and 10 of Compliance Order No. DER-16CO-003 (issued March 14, 2016) provided:

2. *Commencing on the date of service of this Order, provide quarterly public notification, in accordance with **Enclosure No. 1**, of the Eastin's failure to meet the Mercury MCL during any calendar quarter that RAA exceeds the MCL.*
3. *Commencing on the date of service of this Order, submit proof of each public notification conducted in compliance with Directive No. 2, herein above, within 10 days following each such notification, using the form provided as Enclosure No. 2.*

ATTACHMENT A

6. *Perform each and every element of the Division's approved Corrective Action Plan according to its time schedule.*
7. *On or before July 10, 2016 and every three months thereafter, submit a report to the Division using the form provided as Enclosure No. 3 (enclosed) showing actions taken to comply with the Corrective Action Plan during the previous three months.*
8. *On or before February 8, 2017, complete all of the improvements and/or additions outline in the EASTIN's Corrective Action Plan*
9. *On or before February 8, 2017, Eastin water system shall return to compliance with all requirements of the Safe Drinking Water Act.*
10. *Not later than ten (10) days following the date of compliance with the Mercury MCL, demonstrate to the Division that the water delivered by the Eastin complies with the Mercury MCL*

§116701. Petitions to Orders and Decisions.

- (a) *Within 30 days of issuance of an order or decision issued by the deputy director under Article 8 (commencing with Section 116625) or Article 9 (commencing with Section 116650), an aggrieved person may petition the state board for reconsideration. Where the order or decision of the deputy director is issued after a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, this section shall apply instead of Section 11521 of the Government Code.*
- (b) *The petition shall include the name and address of the petitioner, a copy of the order or decision for which the petitioner seeks reconsideration, identification of the reason the petitioner alleges the issuance of the order was inappropriate or improper, the specific action the petitioner requests, and other information as the state board may prescribe. The petition shall be accompanied by a statement of points and authorities of the legal issues raised by the petition.*
- (c) *The evidence before the state board shall consist of the record before the deputy director and any other relevant evidence that, in the judgment of the state board, should be considered to implement the policies of this chapter. The state board may, in its discretion, hold a hearing for receipt of additional evidence.*
- (d) *The state board may refuse to reconsider the order or decision if the petition fails to raise substantial issues that are appropriate for review, may deny the petition upon a determination that the issuance of the order or decision was appropriate and proper, may set aside or modify the order or decision, or take*

ATTACHMENT A

other appropriate action. The state board's action pursuant to this subdivision shall constitute the state board's completion of its reconsideration.

- (e) The state board, upon notice and hearing, if a hearing is held, may stay in whole or in part the effect of the order or decision of the deputy director.*
- (f) If an order of the deputy director is subject to reconsideration under this section, the filing of a petition for reconsideration is an administrative remedy that must be exhausted before filing a petition for writ of mandate under Section 116625 or 116700.*

**STATE OF CALIFORNIA
Division of Drinking Water
State Water Resources Control Board**

Notice of Administrative Penalty

System Name: Eastin

System Number: 5000574

Background Statement

During the month of August 2017, the Division of Drinking Water issued Citation No. 01-10-17C-013 to the Stewart and Jasper Orchards DBA Eastin. The citation carried an administrative penalty in the amount of **\$12,000.00**

Method of Payment

A check for the total amount of the administrative penalty and a copy of this form shall be submitted to the Division by **September 7, 2017**. The citation number shall be written on the check. The check shall be made payable to the California Division of Drinking Water - Safe Drinking Water Account and submitted to:

SWRCB Accounting Office
Attn: Drinking Water Program
PO Box 1888
Sacramento, CA 95812-1888

Please attach check below:

COMPLIANCE CERTIFICATION

Citation Number: **01-10-17C-013**

Name of Water System: **Eastin**

System Number: **5000574**

As required by Section 116450 of the California Health and Safety Code, I certify that the Stewart and Jasper Orchards DBA Eastin complied with the directives of this citation as indicated below:

<u>Required Action</u>	<u>Date Completed</u>
------------------------	-----------------------

Payment of \$12,000.00 Administrative Penalty to the Board Accounting Office in Sacramento, as required by Directive 1 of the Citation.

Signature of Water System Representative

Date

Attach a copy of the check for payment of the administrative penalty.

**THIS FORM MUST BE COMPLETED AND RETURNED TO THE DIVISION OF DRINKING WATER AT 31 E. CHANNEL STREET ROOM 270, STOCKTON, CA 95212
NO LATER THAN SEPTEMBER 7, 2017.**

Disclosure: Be advised that Section 116725 and 116730 of the California Health and Safety Code states that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached order may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in county jail not to exceed one year, or by both the fine and imprisonment.